

REMARKS

Generally

Claims 35-38 and 43-57 remain pending in the present application. In this Response, non-elected claims 24-34 and 39-42 have been cancelled. Exemplary support for the new dependent claims can be found throughout the specification and claims as originally filed.

It should be noted that Applicants have no intention of abandoning any non-elected subject matter and should it be necessary, Applicants expressly reserve the right to file one or more continuation and/or divisional applications directed to non-elected subject matter.

Restriction Requirement

The Office has required that the present application be subject to a Restriction Requirement under 35 U.S.C. § 121 to one of the following two groups:

Group I: Claims 24-34 and 39-42, drawn to a formulation; and

Group II: Claims 35-38, drawn to a method.

Applicants respectfully traverse the Restriction Requirement as set forth in the Action. Moreover, Applicants respectfully assert that the inventions of Groups I and II should properly be examined together. Further, Applicants submit that the inventions of Groups I and II are closely related and that a proper search of any of the claims should, by necessity, require a proper search of the others. Thus, Applicants submit that all of the claims can be searched simultaneously, and that a duplicative search, with possibly inconsistent results, may occur if the restriction requirement is maintained.

Applicants submit that any nominal burden placed upon the Examiner to search accordingly to determine the art relevant to Applicants' overall invention is significantly outweighed by the public's interest in not having to obtain and study many separate patents in order to have available all of the issued patent claims covering Applicants' invention. The alternative is to proceed with the filing of numerous applications, each consisting of generally the same disclosure, and each being subjected to essentially the same search, perhaps by different Examiners on different occasions. This process would place an unnecessary burden on both the Patent and Trademark Office and on the Applicants.

Regardless of whether the two groups are independent or distinct, Applicants respectfully assert that the Examiner need not have restricted the application. *M.P.E.P.* § 803 requires that if the search and examination of an entire application can be made without serious burden, the Examiner must examine it on the merits, even though it includes claims to

independent or distinct inventions. Therefore, it is not mandatory to make a restriction requirement in all situations where it would be deemed proper.

In the interest of economy, for the Office, for the public-at-large, and for Applicants, reconsideration and withdrawal of the restriction requirement are requested.

Nevertheless, Applicants hereby elect, with traverse, Group II (*i.e.*, claims 35-38).

As noted hereinabove, Applicants have no intention of abandoning any non-elected subject matter and should it be necessary, Applicants expressly reserve the right to file one or more continuation and/or divisional applications directed to non-elected subject matter.

The Examiner is invited to contact the undersigned at the below-listed telephone number, if it is believed that prosecution of this application may be assisted thereby.

Respectfully submitted,
BUCHANAN INGERSOLL & ROONEY PC

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